

March, 2018

## RUSSIA: THE SECOND PHASE OF VOLUNTARY DISCLOSURE

Dear Sirs,

This is to inform you about the latest updates of Russian laws concerning the capital amnesty measures.

The first phase of the capital amnesty took place in the period from **July 1, 2015 to June 30, 2016**. Within this phase any individual, being the owner of accounts in foreign banks and/or having property abroad (including a controlled foreign legal entities), could declare them without the threat of persecution under the criminal, administrative and tax laws of Russian Federation.

**On February 19, 2018**, the capital amnesty measures were officially extended upon the President's approval of the following federal laws:

- **The Federal law n.33-FZ dated February 19, 2018** on amendments to the Federal law "On voluntary declaration of personal assets and banking accounts (deposits) and amendments to certain legislative acts of the Russian Federation" (hereinafter – **Federal Law 33-FZ**);
- **The Federal law n.34-FZ dated February 19, 2018** on amendments to the Parts One and Two of the Tax Code of the Russian Federation and to the article 3 of the Federal law "On amendments to Parts One and Two of the Tax Code of the Russian Federation (with respect to taxation of controlled foreign legal entities' profit and foreign institutions' income)" (hereinafter – **Federal Law 34-FZ**);
- **The Federal law n.35-FZ dated February 19, 2018** on amendments to the article 76.1 of the Criminal Code of the Russian Federation (hereinafter – **Federal Law 35-FZ**).

### KEY POINTS

- *Voluntary declaration of foreign personal assets, including controlled foreign legal entities, and foreign banking accounts (deposits).*
- *Taxation of controlled foreign legal entities' profit and incomes.*
- *Criminal liability.*

All above mentioned legislative acts extended the capital amnesty measures for a new period **from March 1, 2018 to February 28, 2019**.

Compared with the first phase of the amnesty, the second approves some new provisions aimed at improving the practical application of the law.

**1. Voluntary declaration of foreign personal assets, including controlled foreign legal entities, and foreign banking accounts (deposits).**

As in the first phase of the amnesty the owner of accounts in foreign banks and/or having property abroad (including a controlled foreign legal entities), could declare them by submitting a special declaration (hereinafter - **Declaration**).

Pursuant to the **Federal Law 33-FZ** within the second phase of the capital amnesty individuals will be able to declare not only the accounts opened in foreign banks but also the accounts, already closed by the moment of the declaration, on the condition that these accounts were opened before January, 2018.

The individuals who submitted a Declaration within the first phase will be able to present a new one within the second phase.

It should be noticed that an individual can submit only one Declaration. The amendments to the Declaration are not admitted.

The Declaration can be submitted to any tax inspection or to the central office of the Federal tax service. Submitting the Declaration at the place of the residence is not requested.

**2. Taxation of controlled foreign legal entities' profit and incomes.**

Pursuant to the updated version of the **p.2.1 of the article 45 of the Tax Code**, the tax will not be charged if the obligation to pay such a tax arose before January 1, 2018 as a result of operations related to acquisition, use or disposal of property (property rights) and (or) controlled foreign entities, the information of which was indicated in the Declaration submitted within the period from March 1, 2018 to February 28, 2019, or related to accounts opening and (or) crediting funds to accounts, the relevant information of which was indicated in the Declaration. However, this rule is not applicable to the obligation to pay the taxes in respect to income and (or) assets of controlled foreign legal entities indicated in the Part Two of the Tax Code.

In the case of the liquidation of the controlled foreign legal entity its owner will be released from payment of the tax from incomes not only in natural form as it was in the first phase, but also in monetary form on condition that:

- such income was declared and an application for exemption from tax payment was filed;

*and*

- foreign entity was liquidated before March 2019 or,
- if the foreign entity can not be liquidated before March 1, 2019 due to restrictions and (or) requirements established by the personal law of this entity or its participation in the proceedings, the liquidation must be completed within 365 consecutive calendar days from the expiry date of such events, on condition that the decision on the liquidation will be taken before July 1, 2018, or
- foreign entity was liquidated within 365 consecutive calendar days from the end of the minimum period of participation established by the personal law of a foreign entity, provided that in the event of non-compliance with such a period, the taxpayer will be obliged to pay a foreign tax, and the beginning of such a period started before January 1, 2015, and ended after March 1, 2019.

### 3. Criminal liability

The **Federal Law n.35-FZ** introduces changes to **p.3 article 76.1 of the Criminal Code** of the Russian Federation, according to which the persons who declared their accounts in foreign banks and/or property abroad (including a controlled foreign legal entities) will not be liable for violation of the following articles of the Criminal Code **if such a violation was committed before January 1, 2018**:

- article 193 (failure to repatriate the monetary funds in foreign currency or in official RF currency);
- pp.1-2 article 194 (failure to pay the customs payments);
- article 198 (failure of an individual to pay the taxes, fees and insurance contributions);
- article 199 (failure of an entity to pay the taxes, duties and insurance contributions);
- art. 199.1 (failure to fulfill the duties of a tax agent);
- art. 199.2 (concealment of monetary funds or property of a company or an individual entrepreneur by means of which the taxes, fees, insurance contributions are to be collected) .

\* \* \*

Then, for those who will present the Declaration within the second phase of the capital amnesty, the similar scope of guarantees and privileges as the one for those who did it within the first phase, will be applicable.

We hope that You will find this information of use.

**For further information**

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